(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. NO. 2070 OF 2003

PETITIONER

Smt. Anjani Sharma, aged about 29 years, W/o Akhilesh, Female Health Worker, Section Lokhandi, Community Health Centre, Takhatpur, Distt. Bilaspur [C.G]

VERSUS

RESPONDENTS

1. State of Chhattisgarh through Secretary, Department Health & Family Welfare, Mantralaya, D. K. S. Bhawan, Raipur, [CG]
2. Chief Medical & Health Officer Bilaspur [Chhattisgarh]
3. Smt. C. Baghel, A N M, Section Belsara, Community Health Centre, Takhatpur, District Bilaspur. [Chhattisgarh]

P.R. No. 19357 03
Presented by Shri Akhilesh Singh
14/07/03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

COPY.

(23)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP/1220/2006 सन् 2003

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25.9.2006

Shri Abhishek Sinha, counsel for the petitioner.

Shri Utkarsh Verma, Deputy Govt. Advocate for the State/ respondents no.1 and 2.

None for respondent no.3, though served.

Heard finally with the consent of the parties.

Order dictated as follows:

ORAL ORDER

By this writ petition filed under Article 226/227 of the Constitution of India, the petitioner who was working as Health Worker in Community Health Centre, section Lokhandi, Thakatpur, Dist. Bilaspur, has challenged her order of transfer dt.18.6.2003 (Annexure P-3) by which she was transferred from the said place of posting to section Belsara, Community Health Centre, Takhatpur, Distt. Bilaspur (C.G) on administrative grounds. By the said order itself, respondent no.3 who was working as A.N.M. in section Belsara C.H.C. Takhatpur, was transferred to Community Health Center, Section Lokhandi, Takhatpur, Distt. Bilaspur in place of the petitioner.

Brief facts are that the petitioner was appointed as female health worker in December 1995 and was posted in Community Health Center, Janjgir, Distt. Janjgir Champa. Thereafter, in the year 2000 she was transferred from Janggir to Bilaspur in the office of Chief Medical & Health Officer. Later on, the petitioner was transferred to Patharia in sub-centre Bhatgaon from where she was posted in I.C.D.S. Again vide order dated 27.5.2002, the petitioner was transferred from I.C.D.S. to Lokhandi Section under Community

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2070 **सन्** 2003

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Health Centre, Takhatpur. She was relieved on 03.6.2002 and in compliance of the aforesaid order, the petitioner joined the office of Block Medical Officer, C.H.C., Takhatpur on 05.6.2002. Thereafter, vide impugned order dated 18.6.2003 again the petitioner was subjected to transfer shifting her from Lokhandi to CHC Belarsa Section, Takhatpur and respondent no.3 was brought in place of the petitioner.

Referring to the contents of the order Annexure P-3, learned counsel for the petitioner submits that respondent no.3 has been shown to be transferred on her own expenses whereas the petitioner has been transferred on administrative grounds. The submission of learned counsel for the petitioner is that the impugned order on the face of it shows that the same was passed for accommodating respondent no.3 because against the choice transfer of respondent no.3, transfer of petitioner was effected. His submission is that on one hand the order passed against the petitioner is a frequent transfer and on the other hand, the same amounts to arbitrary and malafide action on the part of respondents. He prays for quashment of the aforesaid order.

Though the State has caused appearance but no reply on behalf of the State has been filed in this case. A perusal of the order sheets of this Court would show that by an interim order dated 23.7.2003, it was directed that the petitioner shall not be relieved from her present place of posting until further orders. Learned counsel for the petitioner submits that in pursuance of the aforesaid order, the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.1875 सन् 2003

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioner was working in Lokhandi. His submission is that as an effect of stay granted by this Court, she has been benefited.

The order of transfer would show that in fact, the petitioner is said to have been transferred on administrative ground whereas respondent no.3 has been shown to be transferred on her own expenses which literally means that so far as the incumbent is concerned, it was a choice transfer for her. It appears that in fact, the transfer of the petitioner was for accommodating respondent no.3 in place of the petitioner and in order to accommodate the respondent no.3 according to her choice, some body was to be shifted from that place i.e., Lokhandi and the petitioner has been chosen to be removed from the said place.

In the facts and circumstances of this case, this transfer is malafide when it is made not for professed performance, such as in normal course or in public or administrative interest or in the exigencies of service but for other purpose than is to accommodate another person for undisclosed reasons. It is the basic principle of rule of law and good administration, that even administrative actions should be just and fair. I am fortified in my views by the decision of the Apex Court rendered in the matter of ***B. Varadha Rao –vs- State of Karnataka, AIR 1986 S.C. 1986, Pg.1955***.

In the above facts and circumstances, the petition is allowed. The impugned order Annexure P-3 is hereby quashed.

Consequently, M.W.P.No.1875/2003 for grant of ad-interim writ and I.A.no.6269/2006 for urgent hearing stand disposed of.

Sd/-
Sunil Kumar Sinha
Judge

/ Rao/